

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LINNON TYSON,

Plaintiff,

Case No. 11-13898

v.

Hon. John Corbett O'Meara

PATRICK R. DONAHOE,
U.S. POSTMASTER GENERAL,

Defendant.

**ORDER GRANTING
DEFENDANT'S MOTION TO DISMISS**

Before the court is Defendant's motion to dismiss, filed January 6, 2012. Plaintiff filed a response March 1, 2012. Pursuant to L.R. 7.1(f)(2), the court did not hear oral argument.

Plaintiff Linnon Tyson works for the United States Postal Service in Allen Park, Michigan. On December 29, 2009, he filed an EEOC charge contending that he was denied limited duty work while others of a different race, sex, or disability status were not. Plaintiff received a right-to-sue letter from the EEOC on June 7, 2011, and filed his complaint on September 7, 2011.

Defendant contends that Plaintiff's complaint must be dismissed because he did not file it within ninety days of receiving his right-to-sue letter.¹ In order for a complaint alleging Title VII violations to be timely, it must be filed within ninety days of receipt of the right-to-sue letter. See 42 U.S.C. § 2000e-16(c). Plaintiff's complaint was filed ninety-two days after he received

¹ Defendant contends that Plaintiff's complaint was filed on November 7, 2011; it was actually filed on September 7, 2011.

the right-to-sue letter and is, therefore, untimely. Absent allegations supporting theories of waiver, equitable tolling, or estoppel, which are not present here, dismissal is appropriate. See Peete v. American Standard Graphic, 885 F.2d 331, 331-32 (6th Cir. 1989) (affirming dismissal of complaint filed ninety-one days after receipt of right-to-sue letter).

Accordingly, IT IS HEREBY ORDERED that Defendant's motion to dismiss is GRANTED and Plaintiff's complaint is DISMISSED.

s/John Corbett O'Meara
United States District Judge

Date: June 15, 2012

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, June 15, 2012, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager